

SCOTT N. SCHOOLS, SCBN 9990
United States Attorney
JOANN SWANSON, CSBN 135879
Chief, Civil Division
KATHERINE DOWLING, CSBN 220767
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, CA 94102-3495
Telephone: (415) 436-6833
Facsimile: (415) 436-7169

Attorneys for Defendant

TEAL & MONTGOMERY

STEVEN O. TEAL (Bar No. 58454)
MICHAEL S. HENDERSON (Bar No. 175608)
815 Fifth Street, Suite 200
Santa Rosa, California 95404
Telephone: (707) 525-1212
Facsimile: (707) 544-1388

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SHEILA CLEVELAND, CHELSEA
CLEVELAND, TYSON CLEVELAND,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

Case No. C 06-3853 PJH
E-Filing Case

**STIPULATION TO ENLARGE THE
DEADLINE TO FILE A MOTION FOR
SUMMARY JUDGMENT AND
COMPLETE MEDIATION AND
PARTIES AGREEMENT ON MOTION
TO COMPEL**

[PROPOSED ORDER]

The following is hereby stipulated by and between the undersigned, subject to approval of the Court:

- Without Defendant agreeing with any of the allegations raised by Plaintiff in Plaintiffs motion to compel, the parties have met and conferred to resolve all issues raised in such motion by agreement set forth below. Parties would like to

maintain the date currently calendared with Judge LaPorte to resolve other discovery issues that arise prior to filing of dispositive motions and to the extent any assistance may be necessary to carry out the below agreement.

2. The date for filing Motions for Summary Judgment is currently set for September 19, 2007. Because parties will be reconvening the deposition of Curtis Cross and exchanging additional materials, parties request that the date for filing the dispositive motion be enlarged to **October 24, 2007** in order to allow time to accomplish these objectives and to obtain the transcript for use in the motion. No trial date is currently set and, therefore, this request will not cause a delay in trial. The date to complete private mediation will be enlarged from November 21, 2007 to **December 17, 2007**.

3. The deposition of Curtis Cross will be resumed on **September 5, 2007**, in San Francisco at the U.S. Attorney's Office at 9AM. The deposition of Janine Clayton will also be resumed on **September 5, 2007** at 11AM. The deposition will be limited to materials received by counsel for Plaintiffs from the Defendant's July 20, 2007 package as well as the documents to be received pursuant to paragraph 5 below. A copy of any exhibit to be shown to the deponent will be brought to the deposition by Plaintiff's counsel for the deponent and for both counsel. Alternatively, a list of the exhibits to be used can be provided to counsel for Defendant by noon on September 4, 2007 so that copies can be made for the deposition.

4. Defendant reserves the issue for hearing with Magistrate Judge LaPorte (among other issues) of the payment of witness fees which have not yet been paid to Bureau of Reclamation employee Edward Zangger in the amount of \$445.00 for his deposition on August 6, 2007. Plaintiff maintains that witness fees do not have to be paid to government witnesses.

5. Counsel for Plaintiff will be provided the documents requested in items 4-7 of Plaintiff's August 14, 2007 motion in accordance with the subsequent paragraph.

1 Defendant maintains that Counsel for Plaintiff was already provided prior to the
2 motion to compel the documents in hard copy from the diskette requested in item
3 4 of the motion to compel, however, Defendant will now further produce the
4 diskette. With regard to item 5, Defendant maintains that counsel was informed
5 prior to the motion to compel that no full size version of this document exists.
6 Counsel for Plaintiffs can question Mr. Cross and Ms. Clayton at their continued
7 depositions and, if not satisfied with their responses, can reserve this issue for
8 hearing with Magistrate Judge LaPorte. With regard to item 6, counsel for
9 Plaintiffs will be provided the Cal Nickel documents referenced in the July 24,
10 2007 deposition of Curtis Cross. Defendant maintains that Counsel for Plaintiff
11 was informed prior to the motion to compel that these documents were under
12 review for privilege concerns, that review has been completed and the documents
13 will be produced without privilege objections. With regard to item 7, Defendant
14 maintains that counsel for Plaintiffs was previously informed that the photographs
15 attached to the emails would be provided and were being printed. All of the
16 above documents will be provided to counsel for Plaintiffs on or before **August**
17 **31, 2007.**

18 For the foregoing reasons, the parties stipulate to an enlargement of the deadlines to file a
19 motion for summary judgment and to complete mediation, so that the deadline for filing
20 summary judgement motions is enlarged to **October 24, 2007**, and the date to complete
21 mediation is enlarged to **December 17, 2007**. This is the third request to enlarge these
22 deadlines.

23
24 DATED: August 28, 2007

TEAL & MONTGOMERY

25
26 By: /s/ Michael S. Henderson
MICHAEL S. HENDERSON
27 Attorneys for Plaintiffs

28 DATED: August 24, 2007

SCOTT N. SCHOOLS
United States Attorney

By: /s/ Katherine B. Dowling
KATHERINE B. DOWLING
Assistant United States Attorney
Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED:

DATED: 8/30/07

